

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 22-CR-20244-GAYLES

UNITED STATES OF AMERICA

vs.

FREDERICK LEE ALVIN,

Defendant.

OMNIBUS ORDER AFFIRMING AND ADOPTING
REPORTS OF MAGISTRATE JUDGE

THIS MATTER was before the Court on Magistrate Judge Torres' Report and Recommendations as to Defendant's Motion to Strike ACCA Allegations, or in the alternative, Bifurcate Trial [DE 180]; Report and Recommendation as to Defendant's Motion in Limine to Exclude Evidence of May 8 Robbery and Government's Motion in Limine to Admit Evidence of May 8 Robbery [DE 181]; and Report and Recommendations as to Defendant's Motion in Limine to Exclude Ballistics Evidence [DE 189], to which Defendant filed objections. [DE 194; DE 195; DE 199]. The Court, having heard oral argument at the Pretrial Conference on January 10, 2024 and reviewed *de novo* the Reports and the record, agrees with Magistrate Judge Torres' well-reasoned analysis and will affirm and adopt his recommendations. Therefore, it is

ORDERED that:

(1) The Report and Recommendation [DE 180] as to Defendant's Motion to Strike ACCA Allegations, or in the Alternative, Bifurcate Trial [DE 110] is **AFFIRMED and ADOPTED**; Defendant's Objections [DE 195] are **OVERRULED** and Defendant's Motion to Strike [DE 110] is **DENIED**. Because the Parties have stipulated to Defendant's prior felony convictions, Defendant's Motion to Bifurcate [DE 110] is **DENIED AS MOOT**.

(2) The Report and Recommendation [DE 181] as to Defendant's Motion to Exclude Evidence of May 8, 2022 Robbery [DE 51] and Government's Motion to Admit Evidence of May 8, 2022 Robbery [DE 52] is **AFFIRMED and ADOPTED**; Defendant's Objections [DE 194] are **OVERRULED**; Defendant's Motion [DE 51] is **DENIED**; and the Government's Motion is **GRANTED** [DE 52]. Given that evidence of the May 8, 2022 robbery is relevant and intrinsic to this case, it is admissible solely to prove Defendant's identity and whether the Government proved the elements of Count 4. The Government is cautioned that this evidence needs to be presented in a neutral, non-inflammatory fashion.

(3) The Report and Recommendation [DE 189] as to Defendant's Motion to Exclude Ballistics [DE 109] is **AFFIRMED and ADOPTED**; Defendant's Objections [DE 199] are **OVERRULED** and Defendant's Motion [DE 109] is **DENIED**. As stated on the record at the Pretrial Conference, given that Defendant's motion for an extension of time to file objections was denied as moot, Defendant may file supplemental objections to the Government's ballistics expert, Christopher Barr, up to the day before his testimony, as well as following the trial for appellate purposes. Given that Mr. Barr's transcript from the January 4, 2024 Evidentiary Hearing before Magistrate Judge Torres will likely not be available before or during trial, all counsel is instructed to bring to the Court's attention whether any of his testimony on the stand contradicts his prior testimony.

DONE AND ORDERED in Miami, Florida, this ¹²12 day of January, 2024.


PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: All counsel of record
The Honorable Edwin G. Torres